

Jacqueline Tunstall

Employee

7166425

Agreement Date: 29 January 2024

Decision - Agreement

Outcome: Regulatory settlement agreement

Outcome date: 29 January 2024

Published date: 6 February 2024

Firm details

Firm or organisation at date of publication and at time of matters giving rise to outcome

Name: McKenzie Bell Ltd

Address(es): 47 John Street, Sunderland, SR1 1QU

Firm ID: 573266

Outcome details

This outcome was reached by agreement.

Decision details

1. Agreed outcome

1.1 Jacqueline Tunstall (Ms Tunstall), a former employee of McKenzie Bell Ltd (the Firm), agrees to the following outcome to the investigation of her conduct by the Solicitors Regulation Authority (SRA):

- a. to the SRA making an order under section 43 of the Solicitors Act 1974 (a section 43 order) in relation to Ms Tunstall that, from the date of this agreement:
 - i. no solicitor shall employ or remunerate her in connection with his practice as a solicitor
 - ii. no employee of a solicitor shall employ or remunerate her in connection with the solicitor's practice
 - iii. no recognised body shall employ or remunerate her
 - iv. no manager or employee of a recognised body shall employ or remunerate her in connection with the business of that body



- v. no recognised body or manager or employee of such a body shall permit her to be a manager of the body
- vi. no recognised body or manager or employee of such body shall permit her to have an interest in the body except in accordance with the SRA's prior permission
- b. to the publication of this agreement
- c. she will pay the costs of the investigation of £300.

2. Summary of facts

2.1 On 4 May 2023, the SRA received a report from the Firm stating that Ms Tunstall had misappropriated monies from the Firm's office account. Ms Tunstall was alleged to have misappropriated monies by making seven pre-signed office cheques (the cheques) payable to her personal bank account between 10 October 2022 and 12 January 2023, totalling £1,450.

2.2 At the time of writing the cheques, Ms Tunstall was employed at the Firm as its Office Administration Manager. As part of her role, she was responsible for managing the Firm's accounts, reporting directly into the four directors, arranging for petty cash to be posted between the Firm's two offices, submitting employee timesheets and overtime claims, and arranging other necessary payments from the Firm's office account. Ms Tunstall had been employed by the Firm for over 30 years and was therefore considered a trustworthy employee. Due to her trusted status, she worked with minimal supervision.

2.3 Ms Tunstall has stated that she made the cheques payable to herself as a refund for office expenses, such as tea, coffee, milk and sugar, which she had incurred personally. Ms Tunstall has stated that she did not retain receipts for these expenses and, in addition, did not inform the directors that she was incurring the expenses or that she was reimbursing herself using the cheques.

2.4 It was not expected for employees to incur office expenses personally. Should this occur, the usual process was for the employee to provide a receipt to Ms Tunstall for the relevant expense, then Ms Tunstall would arrange for a refund via bank transfer from the office account. Ms Tunstall had sole responsibility for arranging such refunds in these circumstances.

2.5 It was also common practice at the Sunderland office, where Ms Tunstall was based, for employees to bring in their own refreshments. Even if this was not the case, the size of the Sunderland office would not warrant such high expenditure on these items. In any event, the Firm expected such items to be purchased using the petty cash and a record to be kept of all expenditure. This was the procedure followed at the Washington office. Ms Tunstall was aware of this process as the Washington office would routinely

send Ms Tunstall the record of petty cash sent to enable Ms Tunstall to arrange for a top-up of petty cash to be sent to the Washington office.

2.6 At the time of writing the cheques to herself, Ms Tunstall was aware that she was not following usual procedure and that she had written the cheques to herself in circumstances where their use was not warranted. Ms Tunstall was aware that the cheques were only to be used when an emergency expense arose, but the directors were not available to arrange for payment directly from the office account. The cheques were not envisioned to be used for the expenses Ms Tunstall claims to have used them for. Furthermore, Ms Tunstall has been unable to produce any receipts to support the expenditure she claims, despite knowing as part of her role that receipts were required to refund any expenses properly incurred. As such, there was no good reason for Ms Tunstall to have been using the cheques in this manner.

3. Admissions

3.1 Ms Tunstall makes the following admissions which the SRA accepts:

- a. that between 10 October 2022-12 January 2023, Ms Tunstall used her position as Office Administration Manager to misappropriate funds from the Firm's office account by making seven pre-signed office cheques payable to herself in circumstances where she was aware use of the cheques was not permitted
- b. that her unauthorised use of the cheques for expenses which cannot be verified, and in circumstances which departed from the usual and known procedure for incurring such expenses, involved conduct which means that it is undesirable for her to be involved in a legal practice
- c. that her conduct set out above was dishonest.

4. Why a section 43 order is appropriate

4.1 The SRA's Enforcement Strategy and its guidance on how it regulates non-authorised persons, sets out its approach to using section 43 orders to control where a non-authorised person can work.

4.2 When considering whether a section 43 order is appropriate in this matter, the SRA has taken into account the admissions made by Ms Tunstall and the following mitigation which she has put forward:

- a. Ms Tunstall has shown remorse for her actions and offered to remedy the harm by way of repayment plan to the Firm.

4.3 The SRA and Ms Tunstall agree that a section 43 order is appropriate because:



- a. Ms Tunstall is not a solicitor
- b. her employment or remuneration at the Firm means that she was involved in a legal practice
- c. by using the cheques to take funds from the Firm's office account for her own personal benefit without authorisation and in circumstances where she knew it was improper to use the cheques, Ms Tunstall has occasioned or been party to an act or default in relation to a legal practice. Ms Tunstall's conduct in relation to that act or default makes it undesirable for her to be involved in a legal practice.

4.4 Ms Tunstall's conduct makes it undesirable for her to be involved in a legal practice because:

- a. The conduct involves dishonesty while Ms Tunstall was employed by an authorised body. She was aware that she should not have been taking money from the Firm's office account using the cheques as no emergency expense had arisen while a director was absent. She was also aware that should she have been incurring office expenses personally, the proper process for arranging a refund was to retain receipts and seek approval for a refund by bank transfer. Ms Tunstall did not inform the directors of the Firm that she was acting in this manner, which strongly indicates Ms Tunstall knew her conduct was improper and would not have been authorised by the directors.
- b. Ms Tunstall held a trusted role as Office Administration Manager and had a long working relationship with the Firm. She has used her trusted position and control over the Firm's accounts to create a financial benefit for herself. Given her lengthy experience working in the accounts department at a law firm, should Ms Tunstall obtain employment in the future there is a high chance it will be in a role of the same nature. Based on her conduct, Ms Tunstall has demonstrated that she is not a trustworthy individual to hold such a role. Should Ms Tunstall continue in similar employment without control, this would impact the public's confidence in the safe delivery of regulated legal services.
- c. We hold non-authorised individuals working in the legal profession to the same higher standards expected of solicitors. Ms Tunstall's conduct demonstrates a concerning pattern of behaviour when she decided to take funds from the Firm's office account using the cheques. This indicates that she may exercise a similar lack of judgement in any

future legal practice, the effects of which could be wide ranging and serious.

5. Publication

5.1 The SRA considers it appropriate that this agreement is published in the interests of transparency in the regulatory process. Ms Tunstall agrees to the publication of this agreement.

6. Acting in a way which is inconsistent with this agreement

6.1 Ms Tunstall agrees that she will not deny the admissions made in this agreement or act in any way which is inconsistent with it.

7. Costs

7.1 Ms Tunstall agrees to pay the costs of the SRA's investigation in the sum of £300. Such costs are due within 28 days of a statement of costs due being issued by the SRA.

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